

REMARKS

Favorable reconsideration in view of the here with presented amendment and remarks is respectfully requested.

CLAIM REJECTIONS UNDER 35 USC §103

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (APA).

In general, drugs may usually remain in a thermodynamically stable state when in a crystal form rather than in a non-crystal form. Additionally, in order to improve the absorption, solubility, content uniformity and AUC (bioavailability), among others of a drug, it is generally considered desirable to micronize the drug. Therefore, it is preferable that a drug used in a pharmaceutical dosage form is micronized in a crystal form.

The way to micronize a drug can be roughly classified into an open-circuit pulverizing system and a closed-circuit pulverizing system. Generally speaking, a drug in a crystal form remains in the crystal form after micronization with any one of these pulverizing systems and does not change into a non-crystal form.

The inventors have found that the compound relating to the present invention, (E) – 4 – [2 – [2 – [N – acetyl – N – (4 – methoxybenzenesulfonyl)amino]phenyl]ethenyl] – pyridine 1 – oxide in a crystal form, remains in the crystal form after micronized by an open-circuit pulverizing system, but after micronized by a closed-circuit pulverizing system, the compound changes into a non-crystal form. This phenomenon on the compound is unexpected. Therefore, applicant urges that it would not have been obvious for one of ordinary skill in the art to achieve the present invention based on the known prior art.

For the above reasons, applicant urges reconsideration and withdrawal of the

§103(a) rejection.

CONCLUSION

It is believed that all of the present claims are in condition for allowance. Early and favorable action is earnestly solicited.

AUTHORIZATION

If the Examiner believes that issues may be resolved by telephone interview, the Examiner is respectfully urged to telephone the undersigned at (212) 801-2146. The undersigned may also be contacted by e-mail at ecr@gtlaw.com.

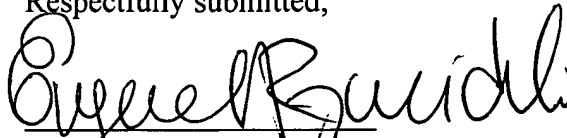
No additional fee, other than the fee for the three month extension of time, is believed to be necessary. The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 50-1561.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-1561.

Dated: September 07, 2004

Respectfully submitted,

By:



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